



# SENATE BILL 182: Limit Appeals to Superior Court

2013-2014 General Assembly

**Committee:** Senate Judiciary I  
**Introduced by:** Sen. Brunstetter  
**Analysis of:** PCS to First Edition  
S182-CSSA-45

**Date:** May 14, 2013  
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Committee Counsel

**SUMMARY:** *The proposed committee substitute for Senate Bill 182 would eliminate appeals for infractions, modify appeals to the superior court in probation revocations in which the defendant has waived a hearing, allow for an unrestricted resentencing hearing upon the reversal of a sentence on appellate review, amend the admissibility of a screening test in probable cause hearings for DWI, and reclassify certain misdemeanors as infractions.*

## CURRENT LAW:

An infraction is "a noncriminal violation of the law not punishable by imprisonment" and unless otherwise specified in a particular statute, is punishable by a fine of not more than \$100. Original jurisdiction for infractions is solely within the district court except when the infraction is a lesser included offense of or charged in conjunction with an offense properly before the superior court.

## BILL ANALYSIS:

**Section 1** of the bill would eliminate appeals for findings of responsibility for infractions in the district court.

**Section 2** of the bill would eliminate the appeal of a probation revocation from district court to superior court if the defendant waived the revocation hearing.

**Section 3** of the bill would repeal G.S. 15A-1335, which provides that when a conviction or sentence imposed in superior court has been set aside on direct review or collateral attack, the court may not impose a new sentence for the same offense, or for a different offense based on the same conduct, which is more severe than the prior sentence less the portion of the prior sentence previously served.

**Section 4** would amend G.S. 20-16.3 to make the use of the numeric result on a driver's alcohol screening test to be used in determining probable cause for believing (i) that the driver has committed an offense involving impaired driving under G.S. 20-138.1 or G.S. 20-138.2, or (ii) that the driver had consumed alcohol and that the driver had in his or her body previously consumed alcohol.

**Sections 5 – 7** would reduce the following offenses from misdemeanors to infractions:

- License not in possession (G.S. 20-7(a))
- Expired operator's license (G.S. 20-7(f))
- Failure to notify DMV of address change for drivers license (G.S. 20-7.1)
- Failure to carry registration card (G.S. 20-57(c))
- Failure to sign registration card (G.S. 20-57(c))
- Failure to notify DMV of address change for registration (G.S. 20-67)



# Senate PCS 182

*Page 2*

- Fishing without a license (G.S. 113-174.1(a) or G.S. 113-270.1B(a))

**EFFECTIVE DATE:** Section 3 of the act becomes effective December 1, 2013, and applies to appeals initiated on or after that date. The remainder of this act becomes effective December 1, 2013, and applies to offenses committed on or after that date.